

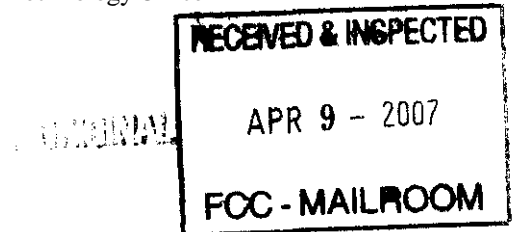


PORTLAND PUBLIC SCHOOLS  
DEPARTMENT OF INFORMATION TECHNOLOGY  
501 N. Dixon Street • Portland, OR 97227  
Telephone: 503-916-2000x4834 • Call Center 503-916-3375 • Fax: 503-916-3162  
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Scott Robinson, Chief Technology Officer

April 5, 2007

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554



**CC Docket No. 02-6**

**Request for Review**

**Subject of appeal:** Universal Service Support Mechanism for Schools and Libraries  
Denial of funding  
Form 471 Application # 449002  
All FRNs  
Funding Year 2005

**Billed entity name:** Portland Public Schools  
**Billed entity number:** 144908

**Contact name:** Ian Poellet  
**Address:** 501 N. Dixon Street  
Portland, OR 97227-1804  
**Telephone:** 503-916-3014  
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Portland Public Schools ("the District") seeks on appeal to reverse a denial of funding in the Universal Service funding request noted above. The District believes that the Schools and Libraries Division of the Universal Service Administrative Company ("USAC") erred both (a) in its initial review of the funding request and (b) in its review of a subsequent appeal, when it asserted that the District issued a Request for Proposals ("RFP") for the services to be funded in contradiction to statements in the District's Form 470 filing. The District believes that it did not issue an RFP and that the Form 470 filing was correct. Had USAC treated the District's Form 470 filing as correct, funding would have been available to the District.

## Background

In Funding Year 2005, the District filed FCC Form 470 application numbers 431070000531034 (posting date 1/13/2005) and 115480000534568 (posting date 1/14/2005), with USAC (copies attached). In these applications, the District announced that it sought a broad range of telecommunications services and internal connections during Funding Year 2005.

Under Universal Service Program rules, the District was required to wait a minimum of 28 days from the posting dates of the Forms 470 prior to entering contracts for the requested services, to allow prospective service providers to collect the information they require to submit a bid. Were the District to enter contracts prior to this Allowable Contract Date, the services so contracted would be disallowed from funding under **the** Universal Service mechanism.

As part of the Form 470, the District was required to indicate whether it had an RFP for the requested services (in the District's case, this was on items 8a/b and 10a/b). Many program beneficiaries are unable to contract for services without a formal RFP giving full procedural details for submitting bids and/or proposals, and those procedures are legally mandatory on both the beneficiary and the service provider. As a result, the indication of the existence of an RFP ensures that prospective service providers are apprised of the minimum legal conditions for a contract.

In each case, the District indicated that it did not have an RFP. The District did, however, draft a set of documents, each entitled *Scope of Work* and *Guidelines for Submission* (the "scope document"). These scope documents (copies attached) provided additional detail on the District's requested services to prospective service providers. They were provided to all service providers who contacted the District in response to the Form 470 posting, regardless of the form of the contact.

After the Allowable Contract Dates, the District selected service providers for each of several telecommunications services and internal connections services, and filed Form 471 application numbers 449002 (copy attached), 476364, and 478450 (copy attached). The District requested a total of approximately \$2.6 million in Universal Service funding, as follows:

471 Application Number	Description	Requested Discount Amount
449002	100mbit, 500mbit, 622mbit	479,456.29
	Centrex/local phone	369,692.13
	Long distance	6,095.39
	Phone conferencing	3,496.32
	Cellular service	98,365.44
	Paging service	10,260.86
	T-1 circuits	24,795.36
	OC-3, T-3 circuits	65,177.11
476364	Phone switch maintenance - daily	94,735.96
	Phone switch maintenance - supp.	11,295.08
478450	Drops installation	365,644.88
	Phone switch card equipment	32,323.62
	Phone switch card installation	37,800.00
	File servers	73,469.94
	Racks, equipment and installation	14,986.73
	UPSs	25,554.97
	WAPs, equipment and installation	418,924.87
	Network equipment and installation	549,130.05
		2,681,205.00

The District eventually received word from USAC regarding the outcome of the Form 471 funding requests in excess of one-and-one-half years after the applications were filed.<sup>1</sup> In Funding Commitment Decision Letters dated 9/20/2006 (copies attached), USAC denied funding for all funding requests on applications 449002 and 478450. In each case, USAC gave the following reason:

*FRN was denied for failure to advise bidders that an RFP was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed.*

### **Appeal to USAC**

The District elected to appeal USAC's denial of funding, and filed a Letter of Appeal with the USAC Administrator on **11/17/2006** (copy attached).<sup>2</sup> The key points of the District's appeal to USAC were as follows:

- USAC apparently interpreted the District's scope documents to be RFPs
- USAC has never defined for applicants what constitutes an RFP
- In the absence of such a definition from USAC, applicants can only (and must) rely on the guidance provided by state and local procurement rules.
- Under the state and local procurement rules applicable to the District, the scope documents fail to meet a large list of criteria for being RFPs. and therefore are *not* RFPs.
- The information in the scope documents was, in fact, distributed fairly to all prospective service providers. The District is unaware of any prospective service provider that did not receive that information, nor of any complaints to that effect received by other parties.
- In the absence of a full, formal RFP, it would appear to be a best practice for applicants to have standardized information available to provide to prospective service providers to expand on the limited information available in the Form 470 format.

The points above are fully fleshed out in the attached copy of the District's Letter of Appeal

In letters to the District dated 2/5/2007 (Administrator's Decision on Appeal, copies attached), USAC denied the District's appeal and once again denied funding. The explanation provided by USAC follows in part:

*... [Y]ou provided copies of documents that you have referred to as RFP bid documents<sup>3</sup>. . . . This is a violation of the competitive bidding requirements of this support mechanism because it undermines the framework of the competitive bidding process by suppressing a fair and open competition among potential bidders. On your Form 470, you did not advise potential bidders of the existence of the additional information which provided insight into your solicitation. The scope of work provided contained bid submission deadlines and evaluation criteria, which would not be available to bidders composing a complete responsive bid to the Form 470. Access to this information would have been necessary for all potential bidders when responding to your Form 470.*

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<sup>1</sup> This period includes the District's response to USAC's Selective Review Information Request ("SRIR") in May and June of 2006. The SRIR itself occurred over a year after the District's Form 471 application was filed in February 2005.

<sup>2</sup> Due to the long delay in USAC's review of the District's Form 471 applications, the funding requested on application number 476364 could no longer be put to practical use. Consequently, the District elected not to appeal USAC's decision on that application.

<sup>3</sup> The District disputes this characterization. See "Discussion" below.

## Discussion

The District once again elects to appeal USAC's decision<sup>4</sup>, and accordingly seeks review by the FCC.

The entire presented question of the validity of the Form **470** process turns on the issue of whether the District correctly checked the box on the form stating that it did not have an RFP for the services. The District and USAC are in agreement that the District composed scope documents in addition to the Form **470** and presented them to prospective service providers. But did these scope documents constitute RFPs? In its Letter of Appeal to USAC, the District described the difficulty in discerning USAC's criteria for establishing the existence of an RFP. Given the murkiness of USAC's guidance on this point, there are clearly many cases in which an applicant cannot feel confident that it has answered the question "correctly", even after extensive deliberation. In the present instance, the District identified that state and local procurement rules, which are justly given great deference in the Universal Service support mechanism, provided the best and most clearly defined criteria. In support of its application of those criteria, the District presented extensive support in state and local procurement rules, as well as specific discussion from a third-party expert in the matter, that its scope documents are not RFPs.

However, at no point in its review did the SLD address the core question of whether the District's scope documents constitute an RFP. Instead, it placed words in the District's mouth in asserting that the District referred to the scope documents as "RFP bid documents", which the District did not and would not do (see attached Letter of Appeal). In addition, USAC's response to the District's appeal attempts to change the threshold condition for marking Form **470** items 8a/b and 10a/b "yes": instead of stating whether or not an RFP exists as stated on the form and in the form's instructions, USAC believes applicants must "advise potential bidders of the existence of *additional information* which provide[s] insight into [the] solicitation".<sup>5</sup>

USAC proceeded to elucidate new reasoning, not previously shared with applicants, why such scope documents were not desirable in the Universal Service support process, regardless of whether they were RFPs or not. Such logic could, after appropriate vetting, serve as a basis to restructure the Form **470** or update the Universal Service process. But it neither alters the current requirement to state the existence of an RFP, nor provides a usable definition of an RFP for use by applicants. It is beyond reasonable to expect applicants to, without guidance, consistently follow such a sophisticated line of reason in considering the existence of an RFP.

In addition, USAC's concerns about "~~undermin[ing]~~ the framework of the competitive bidding process" describe why providing supplemental information hypothetically could create an inequity among prospective service providers, without demonstrating that the District's scope documents actually did create such an inequity. As previously stated, every service provider who contacted the District in response to the Form **470** was provided with a copy of the relevant scope document(s), and the District is unaware of any service provider who has raised concerns about having been excluded or provided inadequate information. Indeed, the District used the scope documents to ensure the same information was provided to all interested service providers. The bare-bones listing of services in a Form **470**, especially in complex areas such as telecommunications and networking, naturally leads service provider requests for clarification. Employing a written method of communication evens out the variations in communication that could result from answering service provider questions in an *ad hoc* fashion.

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<sup>4</sup> Due to the further delays in reaching a final funding determination, the funding requested on application number 478450 can no longer be put to practical use. Consequently, the District has elected to exclude the denial of that application in this Request for Review.

<sup>5</sup> Italics added.

USAC has demonstrated neither (a) a technical error by the District in defining, identifying, and announcing an RFP, nor (b) any actual harm resulting from the District's application of the guidance that it had. In applying its retrospective logic regarding the various elements of a competitive procurement methodology, it capriciously denied the District's funding requests that properly should have been funded.

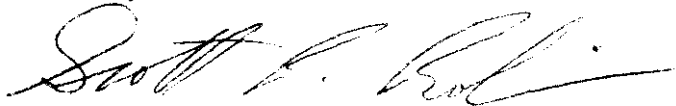
### **Conclusion**

The District seeks a new review of its Form 471 application number 449002. In that new review, USAC should recognize that the District correctly stated on its Form 470 application number 431070000531034 that it did not have an RFP for the requested services, as defined in the applicable state and local procurement rules. As a result, USAC should grant funding to the District in the amount of \$1,057,338.90, which is the requested discount amount on Form 471 application 449002.

At all points in consideration of this Request for Review, the District asks that the Commission recognize that the District has made a good-faith effort to navigate between two concepts of an RFP. This effort was made in the face of highly ambiguous direction provided by USAC, and very specific definitions from state and local procurement rules, and the District genuinely believes it struck the right balance.

Thank you for your consideration of this Request for Review

Sincerely,



Scott R. Robinson  
Chief Technology Officer  
Portland School District  
503-916-3499 (v)  
503-916-3162 (9)  
scott.robinson@pps.k12.or.us

enclosures:

Copies of:

1. Letter of Appeal to USAC dated November 17, 2006, with attachments (168 pp.)  
Attachments include:
  - Consultant Letter of Agency, The Miller Institute for Learning with Technology
  - Copies of two Funding Commitment Decision Letters, dated 9/20/2006
  - Copies of Form 471 applications #449002 and #478450
  - Copies of Form 470 applications #115480000534568 and #431070000531034
  - Copies of Form 470 supplemental information documents
  - Copy of sample District RFP No. 06-856 for comparison
  - Letter from Darin Matthews, President, National Institute of Governmental Purchasing, providing details of the elements required of RFPs in the State of Oregon
2. USAC Administrator's Decision on Appeal dated 2/5/07, re: Form 471 application #449002 (2 pp.)
3. USAC Administrator's Decision on Appeal dated 2/5/07, re: Form 471 application #478450 (2 pp.)



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Scott Robinson, Chief Technology Officer

November 17, 2006

Letter of Appeal  
Schools and Libraries Division, Correspondence Unit  
100 S. Jefferson Rd  
P.O. Box 902  
Whippany, NJ 07981

SUBJECT: Letter of Appeal for FCDLs dated 9/20/06, for Forms 471 #449002 and #478450

Dear USAC Appeals Department:

Portland Public Schools respectfully submits this formal appeal of recent decisions by the SLD to deny *all* funding for *all* FRNs on our two aforementioned Form 471 applications for Funding Year 2005-2006 ("Y8"). *This is a formal appeal* as further detailed in the following pages. The organization of this document follows the official SLD guidelines for a Letter of Appeal, followed by supporting attachments including copies of the two FCDLs in question.

Our applications were prepared and submitted in compliance with the rules of the E-Rate program, including a proper competitive bidding process. We hereby request that SLD reverse this incorrect and unfair denial, and resume processing our two applications, on the basis of Appeals Guideline #1, as stated on the SLD web site:

1. *When the appeal makes clear that USAC erred in its initial review. If USAC makes a mistake (for example, denying funding because the request includes 30% or more of ineligible services), and the appeal points out that mistake (demonstrates that all the services were in fact eligible or that the cost of ineligible services was not included in the original request), USAC will grant the appeal*

Preparation of this appeal was performed with the assistance of The Miller Institute for Learning with Technology (Letter of Agency attached). In the following pages, we provide detailed support for our claim that USAC erred in its initial review. The following pages are organized to address each of the *six* elements of an SLD Letter of Appeal, in turn. This school district serves schools with typical discounts ranging from 64 - 84%, implying that this erroneous decision, which was not even issued until several months after the funding year had ended, *was* hurtful to some of the most economically disadvantaged students in our state, violating not only the letter, but also the spirit, of the Universal Service program. Thank you for considering this appeal and for your efforts to ensure that all children in our country have access to modern telecommunications and technology resources. We trust in your wisdom to reverse these *two* unfortunate and unjustified Form 471 application denials.

Respectfully submitted this 17th day of November 2006,

  
\_\_\_\_\_  
Scott Robinson, Chief Technology Officer (Authorized Official)  
Portland Public Schools

*Letter of Appeal for FCDLs dated 9/20/06, for Forms 471 #449002 and #478450*  
*Detailed Documentation*  
*Portland Public Schools*  
*November 17, 2006*

**1. Write and mail your letter to:**

*Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
100 S. Jefferson Rd  
P.O. Box 902  
Whippany, NJ 07981*

*Appeals may also be submitted electronically, either by electronic mail (e-mail) or by fax. Appeals submitted by e-mail must be sent to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org) using your organization's e-mail account. Appeals submitted by e-mail will be considered "postmarked" on a business day if they are sent from the sender's computer at any time up to 12:00 a.m. (midnight) in the sender's local time zone. Appeals submitted after that time will be considered "postmarked" on the next business day.*

*Documents submitted by e-mail can be in any widely used word processing format, such as Adobe Portable Document Format (PDF), Microsoft Word, or WordPerfect. USAC will automatically reply to incoming e-mails to confirm receipt. You are advised to keep a copy of this e-mail confirmation for your records. This e-mail address can only be used for appeals.*

*Appeals submitted by fax must be sent to **1-973-599-6542**. The fax transmission should include a cover sheet listing contact name, phone number, and • if available • an e-mail address. Fax transmissions will be considered "postmarked" on a business day if the complete transmission is sent from the sender's fax machine by any time up to 12:00 a.m. (midnight) in the sender's local time zone. Appeals submitted after that time will be considered "postmarked" on the next business day. You are advised to keep a copy of your fax confirmation sheet for your records.*

**2. Provide detailed contact information.**

Applicant Name:	Portland Public Schools
Applicant HEN:	144908
Street Address:	501 N. Dixon Street, Portland, OR 97227
Authorized Person:	Scott Robinson
Title of Authorized Person:	Chief Technology Officer
Telephone Number:	503-916-3499
Fax Number:	503-916-3162
Primary Applicant Contact:	Ian Poellet
Title of Primary Contact:	Compliance, Fiscal, and Contract Manager
Telephone Number:	503-916-3014
Fax Number:	503-916-3162
Authorized Consultants:	The Miller Institute for <b>Learning</b> with Technology Mark L. Miller or Don Peck (LOA attached)
Telephone Number:	650-598-0105
Fax number:	866-801-8667
Preferred Contact Method:	E-mail
E-mail Address for Reply:	<a href="mailto:create.pps@learningtech.org">create.pps@learningtech.org</a>

**3. Identify which *USAC* action you are appealing. Note the title of the document containing the *USAC* action you are appealing, the relevant Funding Year, and the date of the document. State that your letter is an “appeal.”**

This letter is an appeal of two related Funding Commitment Decision Letters [FCDLs], for Forms 471 #449002 and #478450, for Funding Year 2005-2006 (“Y8”). Both FCDLs are dated 9/20/2006 and were issued by the SLD to Portland Public Schools [PPS]. Copies of both FCDLs and the corresponding Form 471s are attached.

The specific action being appealed is the denial of all funding on every FRN. The stated reason for funding denial, in every case, was as follows:

FRN **was** denied for failure to advise bidders that an RFP was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed.

We will clearly document, in the appropriate section below, that this basis for denial is factually incorrect, and that therefore USAC erred in its initial review. The Form 470 **correctly** stated that no RFP existed. Apparently, the initial reviewer misinterpreted certain supplemental information documents as constituting RFPs (even though they do not even use phrase, “Request for Proposals”); we will explain below why these documents certainly do **not** meet the criteria to be considered RFPs in the context of Oregon public school districts. This basis for denial was uniformly without merit and every one of the FRN denials on both 471s should be overturned.

**4. Your letter of appeal must also include the Billed Entity Name, the relevant form application number (if available), and the Billed Entity Number.**

Billed Entity Name:	Portland Public Schools
Billed Entity Number:	144908
Form Application Numbers:	Forms 471: #449002 and #478450

**5. Explain your appeal and include copies of all relevant documentation. Please provide as much detailed information as possible. When explaining your appeal, copy the language or text from the decision that is at the heart of your appeal to allow *USAC* to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.**

In this section, we explain our appeal, with reference to attached copies of all relevant documentation. The text from the decision that is at the heart of our appeal, which was given as the basis for denying every FRN on both Forms 471, is as follows:

FRN **was** denied for failure to advise bidders that an **RFP** was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed.’

These denials should be reversed, since USAC erred in its review; the statement that an RFP was issued is, demonstrably, factually incorrect.

We believe that the reviewer who made these determinations misinterpreted the existence of certain informal supplemental documentation, provided to all bidders. These supplementary documents were entitled (for example). “Scope of Work and Guidelines for Submission: FCC Form 470

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<sup>1</sup>Underlining added here for emphasis.



4301000053 1034 Dated On Jan 05." Copies of these supplementary materials have been included as attachments and were previously provided to the SLD. The T1 Data Service supplemental document is illustrative: it provides just enough additional information to bidders, beyond what the Form 470 provides, to enable bidders to size the need (42 sites, 1.5 Mhs per site) and to clarify the weighting of evaluation criteria that are relevant in addition to price. It is a 1-page document that supplements the 470; it is not an RFP. While the reviewer's mistaking these documents for RFPs might be almost understandable, they are definitely not RFPs; indeed, it would have been inconsistent with program rules for Portland Public Schools to indicate that RFPs existed on the Form 470, based on these informal, supplementary materials.

The definition of what constitutes a formal "Request for Proposals" [RFP], from an E-Rate perspective, might leave some room for discussion—since SLD does not provide a rigorous definition, to our knowledge—but it is a matter that is clearly subject to state and local regulations and guidance. The level of formality required for a document to be considered an RFP can vary from state to state, from county to county, and possibly even from district to district, since codes and statutes, as well as factors such as the size of potential contract awards, can result in constraints on the purchasing processes (whether sealed bids are required, whether proposals may be faxed versus being delivered only in hard copy, and so on). More importantly, in the specific case of public entities in the state of Oregon, which is what matters here, there are numerous specific elements that must be present for a document to qualify as a formal RFP, as required by purchasing regulations and guidelines. Rather than repeat all of those here, we ask that the reader please refer to the attached detailed discussion of the Oregon Attorney General's Model Public Contract Rules (Oregon Administrative Rules, 137-047-0260), as provided by the President of the National Institute of Government Purchasing,<sup>2</sup> which cites a long list of specific elements that must be present for a document to be considered a compliant RFP in Oregon. Just a few of the required elements for an Oregon RFP, that are not present in these informal 470-supplement documents, for example, include:

- All contract terms and conditions;  
Notices relating to pre-Offer conferences;  
Time, date, and place of Opening;  
Office where the Solicitation Document may be reviewed;  
Contractor's certification of nondiscrimination;  
How RFP addenda will be made available;  
Statement regarding recyclable products;  
Description of the protest process;
- Whether awards will be made to more than one proposer;
- Certification of compliance with Oregon tax laws;

and so on

Another way to appreciate the distinction between these Form 470-supplement documents, which were provided to all bidders, versus the formal RFP documents required by state and local statutes for Portland Public Schools, is simply to compare them, side by side, to an actual example of an RFP (PPS #06-856), also attached for comparison purposes. Instead of the one or two pages of informal information provided in PPS's 470-supplement documents, an actual PPS RFP would typically involve well over 40 pages of information, addressing all of the many elements we have mentioned. It is worth noting that the Oregon requirements for an RFP were revised in 2003 so as to more closely follow the Model Procurement Code

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<sup>2</sup> In the interest of full disclosure, we note that the author of the attached document was previously employed by Portland Public Schools. He has no current affiliation with the applicant. The information provided as to what constitutes a compliant RFP for a public entity in Oregon is a matter of public record.

adopted by the American Bar Association. This would therefore seem to be a rather sound basis for defining the required elements of an RFP, perhaps one that ought to be more widely adopted by E-Rate applicants.

While the definition of an RFP may vary, one thing is clear: the **USAC/SLD reviewer does not have the authority or jurisdiction to set aside state and local purchasing regulations or statutes.** To the best of our knowledge, the SLD web site does not actually provide a specific definition of an "E-Rate RFP" **but does requires the applicant to certify that they have complied with all applicable state and local procurement / bidding requirements.** Hence, it would be inherently contradictory to require the applicant to check "Yes, we have an RFP" when the document in question does not even come close to complying with the requirements for an RFP under the state and local laws and regulations applicable to this entity.

Ironically, the applicant's obvious intent in creating and distributing these supplemental documents was to conduct an extremely fair and competitive bidding process, by ensuring that all potential bidders had access to the exact same information. Surely the SLD should not penalize an otherwise-compliant school district, properly participating in the E-Rate program, for going the extra mile to ensure a level playing field, by carefully providing exactly the same supplemental information to all potential bidders responding to their Form 470? Because the Form 470 itself is very limiting in the descriptions that can be provided, many people familiar with the E-Rate program would even say that preparing a uniformly available document with "information supplemental to the Form 470" for distribution to all interested bidders would constitute a "best practice." The applicant was in fact obeying this direction from the SLD web site:

**The competitive bidding process must be fair and open. "Fair" means that all bidders are treated the same and that no bidder has advance knowledge of the project information. "Open" means there are no secrets in the process - such as information shared with one bidder but not with others - and that all bidders know what is required of them.**

Only by putting such useful information into written form, such as these 470-supplement documents—or by issuing a formal, state and local compliant RFP—can such openness be fully assured. Had the exact same information been provided verbally, on a hit or miss basis, as potential bidders called or e-mailed the applicant, the SLD reviewer would not have considered those communications to constitute an RFP, and these two applications would not have been denied.

A final factor illustrating that USAC erred in its decision to deny each of these FRNs is that no protests were filed by any potential bidders. The purpose of the requirement to note that there is an RFP—if there is indeed an RFP—is to ensure that all potential bidders have access to the information. Had there in fact been an RFP, but a potential bidder was not made aware of it, since it was not mentioned on the 470, and therefore that bidder was unsuccessful in attempting to win the business, this could provide grounds for protests, and grounds for denial. Had some interested bidders been given the supplemental information sheet, while others were not told of its existence, this could likewise provide grounds for denial. Instead, like the Form 470, these supplementary materials were available for more than the full 28 days and were equally available to all bidders. Portland's competitive bidding process fully honored both the letter and the spirit of the E-Rate program.

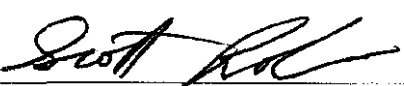
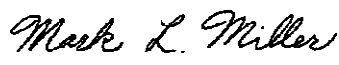
We beseech you to overturn the unfortunate denial of these two Form 471s. This decision was made in error by USAC, since it is contrary to the facts of the matter as well as applicable laws and regulations. Reversing this erroneous decision will serve the public interest; and it will enable telecommunications and technology discounts to improve the academic achievement of over 45,000 children, many of whom are economically disadvantaged and otherwise would have limited access to the power tools of learning.

**6. Provide an authorized signature on your letter of appeal when you file your appeal by mail, by express delivery service, by hand delivery, or by facsimile. When you file your appeal, you must include the name, title, telephone number, and e-mail, if available, of the authorized person.**

The cover page of this letter of appeal provides the authorized signature of Scott Robinson, Chief Technology Officer, Portland Public Schools, who has reviewed this document and certifies to its accuracy. All of the requested contact information has been provided under Question #2 above. Material; were prepared with the assistance of The Miller Institute for Learning with Technology, under a consulting contract governed by an attached E-Rate Consultant Letter of Agency. In assisting with the preparation of this appeal, Miller Institute personnel relied upon information and documentation provided to them by representatives of Portland Public Schools, as well as information obtained from the Schools and Libraries Web Site (Data Retrieval Tool) and other sources. Miller Institute personnel have been authorized to interact with SLD representatives on behalf of Portland Public Schools with regard to this matter. E-mail sent to the preferred reply address, [erate.pps@learningtech.org](mailto:erate.pps@learningtech.org), will be received by Scott Robinson (authorized signer), Ian Poellet (Portland Public Schools' Compliance, Fiscal, and Contract Manager), and by consulting personnel at The Miller Institute for Learning with Technology.

**ATTACHMENTS:**

- Consultant Letter of Agency, The Miller Institute for Learning with Technology
- Copies of two Funding Commitment Decision Letters, dated 9/20/2006
- Copies of Form 471 applications 11449002 and #478450
- Copies of Forms 470s
- Copies of 470-Supplemental Information Documents
- Copy of Sample "Portland Public Schools Request for Proposal" (#06-856) for Comparison
- Letter from Darin Matthews, President, National Institute of Government Purchasing, providing details of the elements required of formal RFPs in the state of Oregon

Portland Public Schools	The Miller Institute for Learning with Technology
	
Signature – Authorized Signer	Signature – Authorized Signer
	Executive Director
Printed Name, Title	Printed Name, Title
October <u>24</u> , 2006	October 20, 2006
Date <u>10/24/06</u>	Date



Universal Service Administrative Company  
Schools & Libraries Division

**F** **COMMITMENT DECISION** **I**  
**di** Year 2005 07/01 - 6

September 20, 2006

Ian Poellet  
PORTLAND PUBLIC SCHOOLS  
501 N DIXON ST  
PORTLAND, OR 97227-1804

**Re: Form 471 Application Number:** 478450  
**Funding Year 2005:** 07/01/2005 - 06/30/2006  
**Billed-Entity Number:** 144908  
**Billed Entity ECC RN:** 0011903853  
**Applicant's Form Identifier:** 2005.03

Thank you for your Funding Year 2005 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$1,505,610.36 is "Denied."

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

**NEXT STEPS**

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service provider) or Form 472 (Billed Entity) - as products and services are being delivered and billed

**FUNDING COMMITMENT REPORT**

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) after you file your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that provides a definition for each line of the Report.

**TO APPEAL THIS DECISION:**

If you wish to appeal a decision in this letter, your appeal must be received by the SLD or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) e-mail address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
  - Appellant name,
  - Applicant name and service provider name, if different from appellant,

- Applicant BEN and service provider SPIN,
  - Form 471 Application Number as assigned by the SLD,
  - "Funding Commitment Decision Letter for Funding Year 2005," AND
  - The exact text or the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
  4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by the SLD's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by the SLD's decision.
  5. Provide an authorized signature on your letter of appeal.

To submit your appeal to the SLD by e-mail, use the "Submit a Question" feature on our web site at [www.sf.universalservice.org](http://www.sf.universalservice.org). Click "Continue," choose "Appeals" from the Topics Inquiry on the lower portion of your screen, and click "Go" to begin your appeal submission. The system will prompt you through the process. The SLD will automatically reply to incoming e-mails to confirm receipt.

To submit your appeal to the SLD by fax, fax your appeal to (973) 599-6542.

To submit your appeal to the SLD on paper, send your appeal to:

Letter of Appeal  
 Schools and Libraries Division  
 Box 125 - Correspondence Unit  
 80 South Jefferson Road  
 Whippany, NJ 07981

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use either the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our web site. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

#### NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Universal Service Support Mechanism. Applicants who have received funding commitments continue to be subject to audits and other reviews that the Universal Service Administrative Company (USAC) and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. The SLD may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by the SLD, the applicant, or the service provider. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

S and Libraries Divi:  
 S: Service Administi Company

## A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each E-rate funding request from your application is attached to this letter. We are providing the following definitions for the items in that report.

**FORM 471 APPLICATION NUMBER:** The unique identifier assigned to a Form 471 application by the SLD.

**FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471. This number is used to report to applicants and service providers the status of individual funding requests submitted on a Form 471.

**FUNDING STATUS:** Each FRN will have one of the following definitions:

1. An FRN that is "Funded" is approved at the level that the SLD determined is appropriate for this FRN. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds were committed. The reason for the decision will be briefly explained in the Funding Commitment Decision Explanation. An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this funding year was insufficient to fund all requests.
3. An E that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and a message that your Internal Connection requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

**CATEGORY OF SERVICE:** The type of service ordered from the service provider, as shown on your Form 471.

**FORM 470 APPLICATION NUMBER:** The Form 470 Application Number associated with this FRN from Block 5, Item 12 of the Form 471.

**SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

**SERVICE PROVIDER NAME:** The legal name of the service provider.

**CONTRACT NUMBER:** The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on your Form 471.

**BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

**SERVICE START DATE:** The Service Start Date for this FRN from Block 5, Item 19 of your Form 471.

**CONTRACT EXPIRATION DATE:** The Contract Expiration Date for this FRN from Block 5, Item 20b of your Form 471. This will be present only if a contract expiration date was provided on your Form 471.

**SITE IDENTIFIER:** The Entity Number listed in Form 471, Block 5, Item 22a. This will be present only for "site specific" FRNs.

**NUMBER OF MONTHS RECURRING SERVICE PROVIDED IN FUNDING YEAR:** The number of months of service that has been approved in the funding year. This will be present only for recurring services.

**ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES:** Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service approved for the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved **for** the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 231, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: The discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse your service provider for the approved discounts for this service for this funding year. It is important that you and your service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry provides an explanation of the amount in the "Funding Commitment Decision."

FCDL DATE: The date of this Funding Commitment Decision Letter (FCDL).

WAVE NUMBER: The wave number assigned to FCDLs issued on this date.



FUNDING COMMITMENT REPORT  
Billed Entity Name: PORTLAND PUBLIC SCHOOLS  
BEN: 144908  
Funding Year: 2005

Form 471 Application Number: 478450  
Funding Request Number: 1336820  
Funding Status: Not Funded  
Category of Service: Internal Connections  
Form 470 Application Number: 115480000534568  
SPIN: \*\*\*\*\*  
Service Provider Name: Communication Connection Contractors, Inc.DBA C-3  
Contract Number: N/A  
Billing Account Number: N/A  
Service Start Date: 07/01/2005  
Contract Expiration Date: 09/30/2006  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$440,536.00  
Pre-discount Amount: \$440,536.00  
Discount Percentage Approved by the SLD: N A  
Funding Commitment Decision: \$0.00 - Selective - Bidding Violation  
Funding Commitment Decision Explanation: FRN was denied for failure to advise bidders that an RFP was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed.

FCDL Date: 09/20/2006  
Wave Number: 057

Funding Request Number: 1336852  
Funding Status: Not Funded  
Category of Service: Basic Maintenance of Internal Connection  
Form 470 Application Number: 431070000531034  
SPIN: 143028471  
Service Provider Name: Pacific Cascade IT, Inc.  
Contract Number: N/A  
Billing Account Number: N/A  
Service Start Date: 07/01/2005  
Contract Expiration Date: 09/30/2006  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$38,480.50  
Pre-discount Amount: \$38,480.50  
Discount Percentage Approved by the SLD: N A  
Funding Commitment Decision: \$8.00 - Selective - Bidding Violation  
Funding Commitment Decision Explanation: FRN was denied for failure to advise bidders that an RFP was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed.

FCDL Date: 09/20/2006  
Wave Number: 057

FUNDING COMMITMENT REPORT  
Billed Entity Name: PORTLAND PUBLIC SCHOOLS  
BEN: 144908  
Funding Year: 2005

Form 471 Application Number: 478450  
Funding Request Number: 1336891  
Funding Status: Not Funded  
Category of Service: Basic Maintenance of Internal Connection  
Form 470 Application Number: 431070000531034  
SPIN: 143005122  
Service Provider Name: Communication Connection Contractors, Inc. DBA C-3  
Contract Number: N/A  
Billing Account Number: N/A  
Service Start Date: 07/01/2005  
Contract Expiration Date: 09/30/2006  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$45,000.00  
Pre-discount Amount: \$45,000.00  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - Selective - Bidding Violation  
Funding Commitment Decision Explanation: FRN was denied for failure to advise bidders that an RFP was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed.

FCDL Date: 09/20/2006  
Wave Number: 057

Funding Request Number: 1343381  
Funding Status: Not Funded  
Category of Service: Internal Connections  
Form 470 Application Number: 431070000531034  
SPIN: 143026471  
Service Provider Name: Pacific Cascade IT, Inc.  
Contract Number: N/A  
Billing Account Number: N/A  
Service Start Date: 07/01/2005  
Contract Expiration Date: 09/30/2006  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$80,847.68  
Pre-discount Amount: \$80,847.68  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - Selective - Bidding Violation  
Funding Commitment Decision Explanation: FRN was denied for failure to advise bidders that an RFP was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed.

FCDL Date: 09/20/2006  
Wave Number: 057

FUNDING COMMITMENT REPORT'  
Billed Entity Name: PORTLAND PUBLIC SCHOOLS  
BEN: 144908  
Funding Year: 2005

Form 471 Application Number: 478450  
Funding Request Number: 1343432  
Funding Status: Not Funded  
Category of Service: Internal Connections  
Form 470 Application Number: 431070000531034  
SPIN: 143006136  
Service Provider Name: Christenson Technology Services  
Contract Number: N/A  
Billing Account Number: N/A  
Service Start Date: 07/01/2005  
Contract Expiration Date: 09/30/2006  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$18,128.31  
Pre-discount Amount: \$18,128.31  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - Selective - Bidding Violation  
Funding Commitment Decision Explanation: FRN was denied for failure to advise bidders that an RFP was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed.

FCDL Date: 09/20/2006  
Wave Number: 057

Funding Request Number: 1343501  
Funding Status: Not Funded  
Category of Service: Internal Connections  
Form 470 Application Number: 431070000531034  
SPIN: 143099136  
Service Provider Name: Christenson Technology Services  
Contract Number: N/A  
Billing Account Number: N/A  
Service Start Date: 07/01/2005  
Contract Expiration Date: 09/30/2006  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$23,877.30  
Pre-discount Amount: \$23,877.30  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - Selective - Bidding Violation  
Funding Commitment Decision Explanation: FRN was denied for failure to advise bidders that an RFP was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed.

FCDL Date: 09/20/2006  
Wave Number: 057

FUNDING COMMITMENT REPORT  
Billed Entity Name: PORTLAND PUBLIC SCHOOLS  
BEN; 144908  
Funding Year: 2005

Form 471 Application Number: 478450  
Funding Request Number: 1343589  
Funding Status: Not Funded  
Category of Service: Internal Connections  
Form 470 Application Number: 115480000534568  
SPIN: 143019980  
Service Provider Name: Mountain States Networking Incorporated  
Contract Number: N/A  
Billing Account Number: N/A  
Service Start Date: 07/01/2005  
Contract Expiration Date: 09/30/2006  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$504,728.76  
Pre-discount Amount: \$504,728.76  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$6.00 - Selective - Bidding Violation  
Funding Commitment Decision Explanation: FRN was denied for failure to advise bidders that an RFP was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed.

FCDL Date: 09/20/2006  
Wave Number: 057

Funding Request Number: 1343811  
Funding Status: Not Funded  
Category of Service: Internal Connections  
Form 470 Application Number: 115480000534568  
SPIN: 143000132  
Service Provider Name: Qwest Interprise America  
Contract Number: N/A  
Billing Account Number: N/A  
Service Start Date: 07/01/2005  
Contract Expiration Date: 09/30/2006  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$661,602.47  
Pre-discount Amount: \$661,602.47  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - Selective - Bidding Violation  
Funding Commitment Decision Explanation: FRN was denied for failure to advise bidders that an RFP was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed.

FCDL Date: 09/20/2006  
Wave Number: 657

## IMPORTANT REMINDERS & DEADLINES

Billed Entity Number : **144908**  
Name of Billed Entity: PORTLAND PUBLIC SCHOOLS

The following information is provided to assist you throughout the application process. We recommend that you keep it in an easily accessible location and that you share it with the appropriate members of your organization.

FCC REGISTRATION NUMBERS (FCC RNs) - Effective November 1, 2004, the FCC's Fifth Order (FCC 04-190 released August 13, 2004) requires E-rate program participants to have FCC Registration Numbers. Please continue to review our web site for additional guidance.

**FORM 486 DEADLINE** - The Form 486 must be postmarked no later than 120 days after the Service Start Date you report on the Form 486, or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later. If you are required to have a Technology Plan, that plan must cover all 12 months of the funding year. You must indicate the name of the SLD-Certified Technology Plan Approver (TPA) prior to the commencement of discounted services for this funding year. You must indicate the name of the SLD-Certified TPA who approved your plan in your Form 486, and you must retain your approval letter and documentation of your monitoring of the progress toward your stated goals.

**CHILDREN'S INTERNET PROTECTION ACT (CIPA)** - Please review the CIPA guidance in the Form 486 Instructions, Section 11, "IMPACT OF CIPA REQUIREMENTS ON FORM 286."

**INVOICE DEADLINE** - Invoices must be postmarked no later than 120 days after the last date to receive service - including extensions - or 120 days after the date of the Form 486 Notification Letter, whichever is later. Invoices should not be submitted until the invoices products and services are being delivered and billed, and (for BEAR Forms) the provider has been paid.

**OBLIGATION TO PAY NON-DISCOUNT PORTION** - Applicants are required to pay the non-discount portion of the cost of the products and/or services. Service providers are required to bill applicants for the non-discount portion. The FCC has stated that requiring applicants to pay their share ensures efficiency and accountability in the program. FCC 04-190 concluded that a presumptively reasonable timeframe for a beneficiary to pay its non-discount share is 90 days after the completion of services. If you are using a trade-in as part of your non-discount portion, please refer to the web site for more information.

**DOCUMENTATION RETENTION** - FCC rules require that documents demonstrating compliance with the statute and Commission rules must be retained for a period of at least five years after the last day of service delivered. See "Document Retention Requirements" in FCC 04-190 for a descriptive list of many of the documents you must retain.

**SUSPENSION AND DEBARMENT** - Persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the Schools and Libraries Support Mechanism are subject to suspension and debarment from the program.

**FREE SERVICES ADVISORY** - Applicants and service providers are prohibited from using the Schools and Libraries Support Mechanism to subsidize the procurement of ineligible or unrequested products and services, or from participating in arrangements that have the effect of providing a discount level to applicants greater than that to which applicants are entitled.

**Complete program information** - including more information on these reminders - is posted to the SLD section of the USAC web site at [www.sl.universalservice.org](http://www.sl.universalservice.org). You may also contact the SLD Client Service Bureau by e-mail using the "Submit a Question" link on the web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.



Universal Service Administrative Company  
Schools & Libraries Division

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**FUNDING COMMITMENT DECISION LETTER**  
(Funding Year 2005: 07/01/2005 - 06/30/2006)

September 20, 2006

Ian Poellet  
PORTLAND PUBLIC SCHOOLS  
501 N DIXON ST  
PORTLAND, OR 97227-1804

Re: Form 471 Application Number: 449002  
Funding Year 2005: 07/01/2005 - 06/30/2006  
Billed Entity Number: 144908  
Billed Entity FCC RN: 0011903853  
Applicant's Form Identifier: 2005.01

Thank you for your Funding Year 2005 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$1,048,284.22 is "Denied."

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

**NEXT STEPS**

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
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- File Form 486
- Invoice the SLD using the Form 474 (service provider) or Form 472 (Billed Entity) - as products and services are being delivered and billed

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